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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2011 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRASINH LAHUSINH CHAUHAN

Versus

DISTRICT MAGISTRATE

Appearance:

MR. Satish R. Patel for MR BP MUNSHI for Petitioner
Mr.SS Patel for Respondent No. 1, 4
SERVED BY RPAD - (R) for Respondent No. 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/06/1999

ORAL JUDGEMENT :

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 23rd September 1998 made by the District Magistrate, Banaskantha under the powers conferred upon

him under sec.3 of the Prevention of Blackmarketing and Maintenance of Supply of Essential Commodities Act, 1980.

3. The order of detention though was made as far back as on 23rd September 1998, could not be served upon the petitioner since he could not be traced. On 30th October 1998, a Notification was issued and the petitioner was declared to be an absconder. Thereafter, the petitioner was apprehended and order of detention was served upon him on 19th January 1999. The petitioner was taken into custody on 20th January 1999.

4. Amongst other grounds the learned advocate, Shri Patel has urged that along with the order of detention the petitioner was served with the grounds of detention and the supporting material. The documents furnished to the petitioner were illegible. The petitioner, therefore, made a representation and demanded legible copies of the said documents which were furnished on 22nd February 1999. However, still some of the documents were illegible. Again an application was made for legible copies of the documents which were supplied on 4th March 1999. Mr. Patel has contended that the petitioner was summoned before the Advisory Board on 26th February 1999. Hence before the petitioner was supplied legible copies of the documents, the petitioner's opportunity for hearing before the Advisory Board was already exhausted. The petitioner is thus, deprived of effective audience before the Advisory Board, which should vitiate the continued detention of the petitioner. The averments made in the petition are not disputed. In the background of the above facts and in view of the judgement of the Honourable Supreme Court in the matter of Manju Ramesh Nahar, etc. v. Union of India & others, [1993 (3) Supreme 448], the continued detention of the petitioner is required to be held to be bad.

4. The petition is, therefore, allowed. The impugned order dated 23.9.1998, Annexure 'A' to the petition is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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